

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

In re DEEP VEIN THROMBOSIS
LITIGATION

MDL Docket No 04-1606 VRW

ORDER

This Document Relates To:

Kemp v Air Canada Regional, Inc,
No 04-4633

Lee v Cathay Pacific Airways,
Ltd, No 05-4636

Arhin v Northwest Airlines, Inc,
No 06-0274

George v American Airlines, Inc,
No 06-0942

Wylie v American Airlines, Inc,
No 02-2997

Brackenbury v Delta Airlines,
Inc, No 05-3873

Plotkin v British Airways PLC, No
03-3242

_____ /

On August 27, 2007, the court entered an order noting
that there had been no docket activity for seven months or more in
the above cases pending in MDL 04-1606. Doc #671. The court

1 ordered the parties to submit status reports on or before September
2 6, 2007 and gave notice that the court would dismiss without
3 prejudice those cases for which no reports were received. Id.

4 Plaintiff in Kemp v Air Canada Regional, Inc, No 04-4633
5 immediately submitted a statement of non-opposition to dismissal
6 without prejudice. Doc #672. Defendant has not responded.
7 Accordingly, 04-4633 will be DISMISSED WITHOUT PREJUDICE.

8 Plaintiff in Arhin v Northwest Airlines, Inc, et al, No
9 06-0274 reports that his complaint was never served. Doc #678.
10 Plaintiff requests that his action be dismissed without prejudice.
11 Id. Defendants confirm that the complaint in 06-0274 was never
12 served. Doc ##679, 681. Defendants point out, however, that an
13 identical complaint was filed and served by Arhin and was
14 designated as case no 06-4518. Id. The court entered judgment for
15 defendants on September 21 and November 20, 2006 in 06-4518. Doc
16 ##14, 17. Accordingly, 06-0274 is DISMISSED WITH PREJUDICE as
17 duplicative of 06-4518.

18 Plaintiff in Wylie v American Airlines, et al, No 02-2997
19 reports that he is not pursuing claims against the two defendants
20 for whom judgment has not yet been entered, Weber Aircraft LP and
21 Recaro Aircraft Seating. Doc #678. Plaintiff requests that these
22 defendants be dismissed. Id. Accordingly, defendants Weber
23 Aircraft LP and Recaro Aircraft Seating are DISMISSED WITH
24 PREJUDICE in 02-2997.

25 Plaintiffs in Brackenbury v Delta Air Lines, et al, No
26 05-3873 report that they are not pursuing claims against the
27 defendants for whom judgment has not yet been entered, Delta
28 Airlines, Inc, Doe seat manufacturer and Does 1-100. Doc #678.

1 Plaintiffs request that these defendants be dismissed. Id.
2 Accordingly, all remaining defendants are DISMISSED WITH PREJUDICE
3 in 05-3873.

4 Plaintiff in Plotkin v British Airways, PLLC, et al, No
5 03-3242 reports that she is not pursuing claims against the
6 defendant for whom judgment has not been entered, Flying Service
7 Engineering and Equipment, Ltd. Doc #678. Accordingly, defendant
8 Flying Service Engineering and Equipment, Ltd is DISMISSED WITH
9 PREJUDICE in 03-3242.

10 In Lee v Cathay Pacific Airways, Ltd, et al, No 05-4636,
11 plaintiffs and defendant Cathay Pacific Airways report that they
12 are currently negotiating a stipulation to be filed no later than
13 September 28, 2007. Doc ##678, 681. Plaintiffs also report that
14 they are not pursuing claims against the defendants for whom
15 judgment has not been entered, the Doe seat manufacturers. Doc
16 #678. Accordingly, seat manufacturer defendants are DISMISSED WITH
17 PREJUDICE in 05-4636. The action will remain open pending receipt
18 and approval of the aforementioned stipulation.

19 Finally, the court has not received a report from
20 plaintiff in George v American Airlines, Inc, No 06-0942. Sole
21 defendant, American Airlines, Inc, has filed a motion for
22 administrative relief requesting that the court enter judgment for
23 defendant in this action for the reasons set forth in the court's
24 August 21, 2006 order dismissing all claims arising from
25 international flights wherein plaintiffs alleged liability based on
26 asserted failure to warn regarding DVT. Doc #685. Accordingly,
27 plaintiff in 06-0942 is ordered to show cause on or before
28 September 18, 2007 why judgment should not be entered for

1 defendant, consistent with the disposition of the other "failure to
2 warn" cases, for reasons detailed in the August 21, 2006 order.

3 * * *

4 In sum, 04-4633 (Kemp) is DISMISSED WITHOUT PREJUDICE.
5 Case no 06-0274 (Arhin) is DISMISSED WITH PREJUDICE. All remaining
6 defendants are DISMISSED WITH PREJUDICE in 02-2997 (Wylie), 05-3873
7 (Brackenburg) and 03-3242 (Plotkin). Seat manufacturer defendants
8 are DISMISSED WITH PREJUDICE in 05-4636 (Lee).

9 The clerk is DIRECTED to close the file and terminate all
10 motions in 04-4633 (Kemp), 06-0274 (Arhin), 02-2997 (Wylie), 05-
11 3873 (Brackenburg) and 03-3242 (Plotkin).

12 The following cases will remain open pending further
13 activity: 05-4636 (Lee) and 06-0942 (George). Plaintiff in 06-0942
14 (George) is ORDERED TO SHOW CAUSE by September 18, 2007 why
15 judgment should not be entered for defendant for reasons detailed
16 in the court's August 21, 2006 order.

17
18
19 SO ORDERED.

20 

21
22 VAUGHN R WALKER
23 United States District Chief Judge
24
25
26
27
28